

THE *o. m. 36*
Divine and Hereditary Right
OF THE *8005-19*
ENGLISH Monarchy,
ENQUIR'D into and EXPLAIN'D,
In and Under
Several PROPOSITIONS;
PARTLY
Collected from L^d B—, and Others,
PARTLY
From the Laws of Nature, the Laws of the Land,
AND THE
LAW of GOD.

By a GENTLEMAN late of the *Temple*.

*Qui non liberè veritatem pronuntiat, proditor
Veritatis est, Coke 4 Inst. Epilogue.*

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THE

Divine and Hereditary Right

OF THE

ENGLISH MONARCHY

ENQUIR'D INTO AND EXPLAINED

In a Letter

Several PROPOSITIONS;

PROPOSED

Collected from the Writings of the Learned and Others

PROPOSED

From the Laws of Nature, the Laws of the Land

AND THE

D A W O F C O D

By a Gentleman a late of the Temple

And now liberty circulation permitted by the
Parliament of Great Britain

L O N D O N

Printed by J. Fuller, in A. M. Street, near



TO THE
R E A D E R.



HAT follows being wrote in Defence of the Principles of the Church of England, as she stands distinguished from Popery and Presbytery, may reasonably expect a candid, if not a favourable Reception, by all her true Sons, which will the better enable the Author to bear that Obloquy, and those Censures, which he is sure to meet with from her false Friends, and open Enemies.

And the only bare speaking the Truth with Freedom, will also naturally disgust those whose Interest it is to oppose it, and also disoblige many whose long Prejudices, strong Passions, or Fondness for Power, may have bias'd their Judgments to different Sentiments; and I need not to mention how difficult the Task must be to persuade Men they have long been in an Error, and how hard to prevail with the many to believe they have not the Power they
B *imagine*

imagine they have; or to teach the Mighty to think that they execute wrong the Power they possess.

But since I write nothing but what I believe to be true, and have no worldly Interest to prejudice my Judgment in Favour of the Principles I profess; that gives me the greater Assurance to believe that I am now in the Right, and yet I could readily change my Opinion, if fairly shew'd that I am in the Wrong; and as I have a just Claim to all the Liberties and Rights that are inherent in us by Nature, or belong to us by Birthright, as being Freeborn Englishmen; I hope those who boast so much of these Privileges, will allow that they intitle me to a Right to speak with Freedom, and to an Equity to be heard with Candor.

Especially as I have endeavoured carefully to avoid the Extravagancies of all Parties, and every harsh Word that I imagin'd might justly give Offence to any Party: And am only solicitous to pursue Truth in a clear and close Chain of Arguments, founded on those Principles, which the Law of Nature dictates, the Laws of the Land direct, and the Law of God commands.

I have also offered some Authorities from all Parties for the several Truths I have laid down; and as they are generally of the highest Station and greatest Character, must convince

convince the Reader that what I offer is no Novelty, and perhaps may induce him to give the more serious Attention to the Force of the Arguments we urge; for I would press their Authority no farther than the Reasons they give, will support the Principles we profess, since whatever deference I may have for their Characters or Stations, I neither can, nor desire the Reader should pay a blind Obedience to any Human Authority whatever, tho' I cannot run the modish Lengths of disputing what I believe to be divine, or pretend to set Limits to the Power of the Almighty.

As the Letters ascrib'd to Lord B——e, have made a great Noise, and occasioned this Discourse, I have therefore paid them a greater Regard, than otherwise I should have done; and sure their greatest Admirers ought either to credit those great Truths they plainly assert, or give them up as very weak, very inconsistent, or very disingenuous.

I shall make no excuse for publishing this Discourse, nor desire the least Indulgence to any Mistake or Error in it; the only Favour I ask, is not to be condemned without being read, nor partially censur'd after, without a due Consideration of the whole; and perhaps on a thoughtful Examination, the Reader may not easily find a better sett of Principles, consistent with the Law of Nature, the Laws of God, and the English Monarchy, Constitution and Liberties; for all which it is

both my Duty, my Interest, and my Inclination to have the greatest Regard, as a Christian, as an Englishman, and as a true Lover of my Country, the Monarchy, and Constitution; and passionately fond of every Liberty we can possibly enjoy, consistent with our Duty to God, our King, and our Country.

And that Truth alone may prevail, I have endeavoured to set it in a fair and full Light, and ranged the Propositions in such a Method, that the whole may be connected together; and yet have placed them so distinctly, that every one in particular, and the Arguments brought to support its Truth, may be considered separately and a-part; and I have also avoided every Application which might in the least mislead the Judgment by influencing the Passions, depending entirely on the Truth of what I assert — which I shall now leave to the Judgment of the Reader.



PROPOSI-



PROPOSITION. I.

THERE must be an absolute, unlimited and uncontrollable Power lodged *somewhere* in every Government.
Pat. King, p. 93.

As his Lordship offers no Arguments to prove the Truth of this Proposition, it is probable he may think it so evident as not to want any; and indeed, from the Nature of civil Society, it must appear plain to every attentive Reader, who knows how to think closely on Things of this Nature, and will apply his Thoughts to this Subject.

But as some Readers may want Leisure, and others that Application which is necessary to set this Truth in its proper Light, I will therefore first produce some Authorities for it, and then offer such Arguments which, I hope, will firmly establish its Truth.

Dr. *Sharp*, the late Abp. of *York* expresses himself thus. (1) " That there is such a
" Submission due from all Subjects to the
" supreme Authority of the Place where
" they live, as shall tie up their Hands from

(1) *Serm. 1703. P. 19 20.*

“ opposing or resisting it by Force, is evi-
 “ dent from the very Nature and Ends of
 “ political Society, and I dare say there is
 “ not that Country upon Earth, let the
 “ Form of the Government be what it will
 “ (absolute Monarchy, Aristocracy, or Com-
 “ monwealth) where this is not a Part of the
 “ Constitution. Subjects must obey passively
 “ where they cannot obey actively, other-
 “ wise Government would be precarious,
 “ and the publick Peace at the Mercy of
 “ every Male-content, and a Door would
 “ be set open to all the Insurrections, Re-
 “ bellions, and Treasons in the World.”

The Bishop of *Lincoln* (after Abp. of
Canterbury,) in his Sermon before the *Lords*
 30th. *Jan.* 1701. has these Words.

“ What that Authority in every State,
 “ or Country is, to which such a Subjection
 “ as I have now been speaking of, is due,
 “ and against which no *Resistance*, no not
 “ to defend the *best Cause*, or the most in-
 “ nocent Person in the World, may be used
 “ by any of the Community, is a Point
 “ which the municipal Laws and Constitu-
 “ tion of every State and Country must de-
 “ termine. But that wherever the *supreme*
 “ Power, or Authority is lodged, or in
 “ whomsoever it resides—we are bound to
 “ pay either an active or passive Obedience
 “ to it, must either do what it requires, or
 “ suffer what it inflicts: This is without
 “ Con-

“ Controversy the standing Doctrine of
 “ Christianity, and has been confirmed by
 “ the Practice of the best Christians of all
 “ Ages of the Church.

Abp. *Tennison in the Creed of Mr. Hobbs examined*, has the following words () “ Woe
 “ to all Princes upon Earth, if this Doctrine
 “ be true, and becometh Popular. If the
 “ Multitude believes this, the Prince not
 “ armed with the Scales of the *Leviathan*,
 “ that is, with irresistible Power, can
 “ never be safe from the Spears and barbed
 “ Irons which their Ambition and pre-
 “ sumed Interest will provide, and their
 “ Malice will sharpen, and their passionate
 “ Violence throw against him. If the
 “ Beast we spoke of come but to know its
 “ own Strength, it will never be managed.
 “ Wherefore such as own these pernicious
 “ Doctrines destructive to all Societies of
 “ Men, may be said to have Wolves Heads,
 “ as the Laws of old were wont to speak
 “ concerning excommunicated Persons,
 “ and are like those ravenous Beasts, so far
 “ from deserving our Love and Care, that
 “ they ought to be destroyed at the com-
 “ mon Charge.

It would be very easy to add many more
 Quotations from other celebrated Writers
 to the same Purport; but I presume that
 what these three Archbishops offer will pre-
 vail

vail as far as *Authority* can do to support the Truth of this Proposition.

And indeed we have here not only their Authority, but their Reasons too in short, for the Truth of what they assert, which if duly attended to, will be found to establish this Proposition, which I will therefore state and consider under three distinct Heads taken from their own Words, when they tell us that this Truth,

First, *Is evident from the Nature and Ends of political Society.*

Secondly, *That this is without Controversy the standing Doctrine of Christianity, and has been confirmed by the Practice of the best Christians of all Ages of the Church.*

Thirdly, *That the contrary Doctrine would be to make all Government precarious, to open a Door to all Insurrections, Rebellions, and Treasons in the World, and would be destructive to all Societies of Men.*

And if the Truth of this Proposition be *evident from the Nature and End of civil Society*—and be—*without Controversy the standing Doctrine of Christianity*, and the contrary would *open a Door to all Rebellions, and Treasons in the World, and is destructive of all Societies*, as taught by these three celebrated Archbishops; these sure will be such a threefold Cord as it is not possible for the Art of Man to break through.

But before I enlarge on these several Heads,

Heads, it may not be improper to remind the Reader here, that I have nothing else to prove under this Proposition, but only that there must be *somewhere* an *absolute unlimited and uncontrollable Power* in every Government, without any Regard to *where* that Power is lodged, either in our own or any other Nation.

I come now to the three several Heads just laid down, and touch'd on by the three Archbishops, in the Proof of which I shall be as short as the Nature of the Thing will admit ; and as to the first,

It is self evident, that wherever there is a Government, there some must command, and some must obey or be Subjects, since otherwise there could not possibly be any Government at all.

Now those who are to obey or are Subjects, are either obliged to submit to the *uncontrollable Power* of their Governors which is the Thing asserted in this Proposition.

Or else those supposed Subjects have a Right to controul those we call their Governors, and then in Reality the supposed Governors are the true Subjects in fact, as they are to be commanded and controuled by the others, for it is plainly impossible in the Nature of the Thing, that all should command or govern each other mutually, since then there would be no Government at all,

C

but

but every Man would be independent of all the World, and there would be neither Governors, nor Governed or Subjects —contrary to the supposed being of a Government.

And indeed it seems a plain known Rule, that wherever there is a civil Government, it must be supreme and absolute, where there is no civil Government superior to it that can controul it; which is all that is meant to be affirmed in this first Proposition.

Secondly, That the standing Doctrine of Christianity is, to pay an active or passive Obedience to the supreme Power, is very plain from these Words of the Apostle. (1)

Let every Soul be subject to the higher Powers, for there is no Power but of God: the Powers that be, are ordained of God.

2. Whosoever therefore resisteth the Power, resisteth the Ordinance of God: And they that resist shall receive to themselves Damnation.

From which Words we may certainly conclude that there are *higher Powers* to be obeyed; that those Powers are *ordained of God*, and that *they that resist that Power, shall receive to themselves Damnation.*

But being at present only concerned to shew that such an Obedience to the *supreme*

(1) 13 Rom. 1st and 2d ver.

Power as is mention'd in the above Proposition, is the *Doctrine* of the *Apostle*, and consequently the *standing Doctrine* of *Christianity*, I shall confine myself to the Proof of this single Point.

Now that the *Apostle* here meant to teach Men their Duty to their Governors can surely admit of no Dispute.

And then the meaning of his Precept must be according to the natural Sense of the Words that their Resisting the *supreme Power* would be *unlawful*—and so will establish the Truth of the above Proposition.

Or else, this his solemn *Doctrine* must admit of such Exceptions, and Reserves, as every particular Person shall think proper to make, when and as often as he pleases, (for there is no stop in Reserves any where else) which would make this *Doctrine*, of this great *Apostle* of no Use at all, and in Truth no Direction at all, as still leaving every Man to his own Liberty in all Cases; which would be attended with all the Absurdities, mentioned under the former Head, and all the pernicious Consequences, mentioned under the next Head; and be such a gross Imposition on his Disciples, as is entirely inconsistent with his solemn introducing his *Doctrine*, with affirming the *higher Powers* to be the *Ordinance* of God,

and that therefore the resisting them, would make them liable to *Damnation*, and yet at the same Time leave Liberty for every private Person to resist those *higher Powers*, when and as often as he thinks proper, which would be highly unworthy of that great Apostle to teach; and unfit for any Man of common Sense to believe, and as Mr. *Dodd* after mentions, would look like the blind leading the blind.

Thirdly, As to the absurd and dangerous Consequences flowing from the contrary Opinion.

It is evident that there could be no Obligation in Conscience to obey any Government; for an Obligation in Conscience to obey, must arise from an Authority superior to Man, or from a Man's own Consent to bind him to such Obedience; either of which must establish the Truth of the above Proposition if they have any Meaning; for to assert an Obligation in Conscience to obey, and insist on a Liberty not to obey, are plainly inconsistent.

And if there is no *irresistible Power* which we are obliged to obey, every Man is at Liberty to refuse Subjection when he pleases, and to set up any other Government; the Consequence of which would be the Destruction of all civil Societies, and the

encouraging all Disorders, changes of Governments and Usurpations.

Lastly, This Doctrine would dissolve all Government, for if there is a Right reserv'd to every Person to judge of his Governors, which Judgment is Superior to the Power, which is lodged in the whole Government, he may resume that Right when he pleases, which every other Person has the same Right to do, which must consequently entirely dissolve every Government built on such a precarious Foundation, and all the Difficulties under the first Head, in which it was shewed there would be no Government at all, on those Principles, will here equally shew there can be no Obligation at all to obey such a Government, but every Man would be at Liberty to act as he pleas'd, independant of any superior Power; which would let in all the terrible Consequences mentioned under this Head.

And whatsoever the form of Government is under which any Person lives, or from whatsoever Origin Government is derived, these Arguments will equally conclude, That there must be an absolute unlimited and uncontroulable Power lodg'd *somewhere* in every Government.

For if we believe, according to the Bible, that God instituted Government, no Man can reasonably dispute but that we are obliged to

to Obey that Government God himself has Instituted.

Or if Government be supposed to arise from the Agreement of Fathers of Families in behalf of themselves and their Dependants, such Agreement must oblige all Parties to an Obedience to *such Supreme Power* so agreed with.

Or lastly, If Government be supposed to arise from the Union of a free People who join to form a Government, they must either by such a compact have given up the natural Freedom they once had, to such Government so contracted for, which would establish the Proposition and bind them to obey such Supreme Power so contracted for.

Or if at such compact they do not give up such their pretended Rights, then there cannot be said to be any such Contract or Government; but every one of them is still as free and independent as he was before, and consequently there is no Government at all.

And if all, or any of these Arguments be good, they will sufficiently prove the Thing in Dispute; and if the Reader see these Arguments in the same light I do, they will abundantly convince him of the Truth of this first Proposition.

Nor am I sensible that any Objection can be made, with the least Appearance of Reason, to ~~for~~ the former Arguments; except

except the imaginary reserved Rights which every Person may pretend he constantly has excepted out of all Contracts of Obedience, and the pretended implied Reservation there may be in the general Precept of the Apostles; the former of which has been before shewed to be destructive of all Government, and the latter to be equally destructive of the Precept of the Apostle.

But whatever these imaginary natural Rights or Liberties of being free-born *Englishmen* may be pretended to be, I believe it will be very difficult to prove that there are such Things now in being in the World; for since every Child now born must owe a natural Obedience to its Parent, and every one born under any Government must be subject to the Rules of that Government, therefore so far as every Child is subject to either of those Powers, so far it is, and must be absolutely debarr'd from all such imaginary natural Rights and Liberties.

But since his Lordship is pleased to tell us (1) in forming Societies, and submitting to Government, Men give up Part of that *Liberty* to which they are all born, and are all alike, and that the People (2) who had Original Right to the *whole* by the Law of Nature, can have the sole *indefeasible*

(1) P. 118. (2) P. 121.

Right to *any Part*, and really have such a Right to that *Part*, which they reserved to themselves, and Mr. *Bentham*, and others, are loud for the Freedoms we have by *Birth* and the Privileges of *free-born Englishmen*; I should be extreamly glad to know what those *Rights* are to which *all are born* and *all alike*, and whether *Englishmen* have any peculiar Privileges by *being born*, which other Nations have not; and which of them they have reserved, and which of them they have given up? For as I am passionately fond of all the *Rights* and *Liberties*, I can any way justly Claim, and was undoubtedly *Born*, and consequently entitled to my share of all these glorious *Rights* and *Liberties*, and am positive that I never gave any of them up, and not sensible that I ever did any Act to forfeit such my *Rights*, and sure I could not unknowingly forfeit any such *indefeasible Right*.

I should therefore be exceedingly pleas'd to see a Bill of these our Natural Rights, to which *all are* entitled, and of those of *us free-born Englishmen*, for until these Privileges are declared and established by some Act of the Legislator, whatever these Gentlemen are pleased to say, I should not venture to claim these *Natural* and *Englishmen's Rights*, lest the Paw of the Law of the Land should seize me for acting according to this Law and Right of Nature. And how

how hard would be our Fate, to have such Rights and Liberties by Nature, and those *indefeasible* too, and yet, to be carried to the Gallows by the Law of the Land, should we seize on such Parts of Property, Power, and Rights, this same Law of Nature is said to entitle us too.

Is then this so much boasted of Law of *England* inconsistent with the Rights we have by Nature and as *Englishmen*, or can that Law which is said to be founded on Reason and Part of the Law of Nature, be directly contrary both to Reason and the Law of Nature?

Or have we not rather Reason to suspect that tho' these Gentlemen speak of Rights and Liberties by Nature, yet thy know not what those Rights and Liberties are, how we came by them, or which of them have been given up, and which reserv'd; and make a Noise about the Privileges of *free-born Englishmen*, as if being born here gave us a different Natural Right from being born in any other Nation, or as if being an *Englishman* gave him some Privileges inconsistent with the Laws of his Country, since the *English* Law declares there are no such Natural Rights and Liberties, for that tells us there is a natural Allegiance, due by Birth to the Government.

For if there be a natural Allegiance owing from every *Englishman* by Birth to the
D Government,

Government, and such an Allegiance as no such Subject can *transfer* to any other Government, such an Obligation is a full Confutation of all the imaginary Natural Rights all Men are said to be equally entitled to, as well as to those Privileges which, I suppose, these sort of Gentlemen generally mean when they speak of their being free-born *Englishmen*, that is, that they are the Original of all Power by Nature, and that their Governors have none but what they derive from them, which cannot be true if there be a Natural Allegiance due from them to, and which they cannot transfer from, the Government.

Now that there is such a natural Allegiance due from every Person, will appear by the Account Lord *Coke* gives us of it, who tells us.

‘ *Ligeance* is true and faithful Obedience
 ‘ of the Subject due to his Sovereign, and
 ‘ inseparable to every Subject, for he oweth
 ‘ it by Birthright, and it is due by the Law
 ‘ of Nature, which is Part of the Laws of
 ‘ *England*, and is immutable, and cannot
 ‘ be changed, and due to the natural Person
 ‘ of the King, and is not due to the
 ‘ politick Capacity only, that is, to the
 ‘ Crown or Kingdom, distinct from his
 ‘ natural Capacity.’

This is agreeable to the antient and modern Laws and Lawyers, and the late
 executing

executing the Seamen taken in the *Spanish* Ships, who were not charged with endeavouring to bring in the Pretender, but only for fighting, in the Ship of an Enemy against their natural Allegiance; which not only shews that this is the Sense of the Law and Lawyers now—but that a Subject cannot transfer this Allegiance; for these Seamen had done that as far as they could; and indeed if Allegiance could be transferred by the People, it might be transferred every Hour.

And if there be such an Allegiance due from the Subjects, and which they cannot transfer, this will also establish the Truth of the above Proposition.

But as Cases argued, and determined, generally make a much deeper Impression than the closest reasoning alone; I shall here mention what has pass'd betwixt King *James*, and the *Dutch*, in the Year 1688, (1) when he recalled some of his Subjects out of the Service of the States, which they at first refused for three Reasons,

First, That there is Nothing so agreeable to Nature, as, that he who was born free, should have the Right, and Liberty to settle himself where ever he should think it the most advantageous for him—

Secondly, And that it was in his Power to be naturalized, and become a Subject to

(1) The Life of *James* II. late King of *England*, 2d edit. Lond. 1703. P. 177.

them under whose sovereignty he submits his Person.

Thirdly, That the Government receiving him, thereby acquired over him the same Right it had over its own proper and natural Subjects.

The Kings Ambassador reply'd,
That this pretended natural Liberty, could not subsist after that Dominion and Obedience had been introduced; so that the Rights of Sovereignty, and Obedience, were then only to be considered; and that in Virtue of these Rights, it had been the common Opinion in all Times, that no King's natural Subjects could withdraw himself from the Obedience he owed his lawful Prince.—Kings of *Great Britain* had usually done this — and ~~his~~ Capitulation was so.—They at last consented to permit them to return.—

So that on the whole, the Truth of the above Proposition is evident from the Law of Nature, from the positive Authority of Scripture, from the absurd and pernicious Consequences which would flow from the contrary Doctrine, from the antient and present Law of the Land, and from the Law of Nations.

P R O-



PROPOSITION II.

IT is not lawful to resist such a supreme Power, on any Pretence whatsoever.

This seems plainly to follow from the former Proposition, and the Arguments offer'd for the Truth of that, will equally conclude for the Truth of this; for if the *Supreme Power* be *uncontroulable*, and *unlimited*, it must be *irresistible*.

However I will here also pursue my former Method, and first produce a few Authorities for it, and then close this Head with a few Words on this Subject.

Now the Authority of the three Abps. quoted under the former Proposition, will be equally conclusive as to this; and Sir *Simon Harcourt*, at *Dr. Sacheverel's Trial* (1) mentions three Abps. and eleven Bishops, who had preached this Doctrine since the Revolution, which may be easily seen there; to which I shall only add the Authority of some of those on both Sides concerned in that Trial.

(1) P. 63.

And

And first, Sir. *Simon Harcourt* (after Lord Chancellor) tells us, (1) And without Doubt your Lordships, and all Persons will concur with him in this, that 'tis utterly unlawful to resist the *supreme Power*.—And again (2) I shall endeavour to satisfy your Lordships, First, That the Doctors Assertion of the *Illegality of Resistance to the supreme Power* on any Pretence *whatsoever*, in general Terms, without expressing any Exception, or that any Exception is to be made, is warranted by the Authority of the Church of *England*; and Secondly, that this Manner of Expression is agreeable to the Law of the Land.—Again, that your Lordships may not think this Doctrine died at the Revolution, I shall humbly lay before your Lordships the Opinions of three Abps. and eleven Bishops, made since the Revolution; (3) and he names them, and after adds, (4) In no Age can any Instance be shewed, not in the Reign of those Princes who have been deposed, that this Doctrine of the Right of Resistance, as it has been term'd, was ever permitted to be asserted by any particular Person; and then he cites, Co. 7. 11 *Calvin's Case*. 25 *Ed. 3.* the Oath enjoin'd by 3 *Jas. 1.* 4. 12 *Car. 2. c. 3.* 13 and 14. c. 2, 1, 3. 13 and 14. c. 2. sess. 2. 1.

(1) *Sacheverels Trial*, P. 119. (2) P. 123. (3) P. 125.

(4) P. 126.

And

And to give Mr. *Bentham* a Place amongst these great Men he tells us, (1) speaking of the Revolution, that had his Pupil been then concerned and dissenting, " yet had he been
 " of the Minority, you must from the Na-
 " ture of civil Society, have acquiesced in;
 " if not joined in, supporting a Resolution
 " which, when finally pass'd, must be taken
 " for the Resolution of the whole " — For certainly there have been several Majorities which have established the Doctrine of not Resisting the supreme *Power*, as may be seen in the Acts cited above.

Thus much for the Authority of Gospel and Law, taken from the most eminent of both Professions, offered at a Time, so far from being favourable to the Truth here laid down, that we are told by some of the then Managers, that it was their Intent to fix a Brand or Mark of Infamy on it, but they miscarried in that their Attempt, and left this Matter just where they found it; only made it more public by the numerous Authorities produced in its behalf, collected from the most eminent Divines, and the standing Laws of the Land.

And indeed to say the *supreme Power* may be resisted, is to say that it is not the *suprem: Power*, but that there is another Power superior to this *supreme Power*, and

(1) Letter to a young Gent. p. 19.

may controul it, which is a manifest Contradiction, for then it would not be the *supreme Power*.

And as to naming Reserves, or Exceptions, they can have no Place in this Case, and they were before shewed both to destroy all Authority and Government, and to render the Precept of the Apostle vain and useless.



PROPOS-



PROPOSITION III.

*The Laws of every Country must be the Rule
of the Subject's Obedience.*

TO proceed in my former Method,
the Words of Archbishop *Sharp*,
are so very expressive of the Sense
of this Proposition, that I shall take the Li-
berty to repeat Part of them.

‘ As the Laws of the Land are the Mea-
‘ sures of our Active Obedience, so are also
‘ the same Laws the Measures of our Sub-
‘ mission, and as we are not bound to
‘ Obey but where Laws and Constitution
‘ require our Obedience, so neither are we
‘ bound to submit, but as the Laws and
‘ Constitution do require our submission.’

The before quoted Passage from the Bi-
shop of *Lincoln* is much to the same Purpose.

And Mr. *Dodd*, one of Dr. *Sacheverell*'s
Council says, we agree the Law of the
Land is the Measure of the Princes Autho-
rity and the People's Right.

And Mr. *Brown*, in his *Posthumous Dis-
course* lately published, says, P. 60.

‘ The whole of the Controversy runs into
E ‘ this

‘ this Question, what our Laws and Constitution allows,”

So that here we have the concurring Sentiments of all but those, who are so loud for Liberties and Law, that to Question their agreeing to the Truth of this Proposition, would be to Question their Honesty or Understanding, as either not knowing what they really do mean, or not meaning what they profess.

And as all sides seem to concur in admitting the Truth of this Proposition, there will be the less Occasion to mention or offer much about it, and therefore I shall only add,

That as all Obligation must arise from one Law or other, so where there is no Law to direct, every Person must be at Liberty to act as he sees proper, and consequently his Obligation to Obedience must arise from, and be directed by, that Law, which has a right to exact his active Obedience to its Command, if it require what is lawful for the Subject to do, and to submit passively to its Authority, when it requires what he thinks it unlawful actively to obey.

PROPO-



PROPOSITION IV.

Particular Forms of Government may be alter'd, by the consent of all interested.

THE Truth of this Proposition will I presume require very little Proof, it being agreeable to the avowed Principles of 999 in 1000 through the whole Nation, and can be only oppos'd by a very few, who have imbib'd the Notion of Monarchy being of divine Institution, and consequently unalterable, few of whom will Object to the above Proposition when thoroughly explained and rightly understood, since by this Proposition the Right of every one Interested must still subsist, unless granted away, or given up by those who have Authority or Right so to grant it away or give it up.

As in the Case of the Bill of Exclusion of the Duke of *York*, mention'd in these famous Letters, (1) his Lordship tells us that the Duke's Enemies thought he had by the Constitution such a Right as Heir apparent of the Crown, that it was necessary to have a Law to barr that Right, which Bill not passing, his Right still subsisted, and he

(1) P. 168.

after came quietly to the Throne, and his Right to it was acknowledged by all the World; and his Lordship's Arguments will have equal Force in the like Case of every Heir apparent to the Crown, whose Right to it is not legally 'barr'd.

But had the whole Legislator than passed that Act, I presume there would have been very few who would have disputed its Legality, especially if the Duke of York himself had joined in the Act, I cannot see why there should have been any non-compliers since the Law Maxim here seems manifestly to take Place.

(1) *Quilibet; potest renunciare juri pro se introducto.*

Every Man may renounce his own Right. Which will be farther confirmed, by the Opinion of some of those Gentlemen, who have been thought to carry this Matter to the highest pitch it will bear.

But if this Objection may be made to the nearest Friends of the Monarchy, the same Objection is equally of Force against the Asserters of an *indefeasible* Right in the People, for if all Original Right of Power be in them, and no Act they can do can deprive them of it, or barr that Right as some are pleased to assert, then no Government can be made *Irresistible*, contrary to the first and second Propositions where the falseness and absurdity of this Opinion are fully considered.

(1) Co. L. 99. a

However

However I will here proceed in the same Method, and first produce some Authorities, and then offer a few Words in proof of this Proposition. And Dr. *Blackball*, late Bishop of *Exeter*, (1) has these Words ‘ I think
 ‘ it is evident that no Change or Alteration
 ‘ of the Form of Government, from one
 ‘ sort to another, is in itself unlawful to be
 ‘ made, provided it be made by those who
 ‘ have Power to make it, that is by the
 ‘ Government itself, I mean by him or
 ‘ them who for the Time being have the
 Sovereign Power in their Hands.’

And The very attempting the Bill of exclusion is a sufficient Proof of the Opinion of those concern’d for it, that it would have barred the then Duke of *York’s* Right; and it can be no News to the Reader to say there are great Numbers of Persons now for a Common-wealth, as soon as it can be compassed, whose Opinions of the lawfulness of such an Alteration, can admit of no Dispute, and to quote Authorities for these plain Facts seem entirely unnecessary.

The only Persons therefore whose Principles or Opinions may seem to oppose this Proposition are the *Nonjurors*, and therefore I shall produce the Opinion of two of the most considerable of them. Mr. *Leslie*, whose Character is very well known, tells us none are obliged to assert a Right that is

(1) Sermon 1709, on *Prov.* xxiv, 21 called Subjects Duty. P. 9.

not claimed, much less a Right that is disclaimed or given up.

And Mr. *Brown*, in the before mentioned Treatise tells us, (1) It is lawful for a King *de Jure*, to recede from his own Right, to the present Possessor of the Crown, and to give way by his own Consent, that the Allegiance of the Nation be continued to the King *de Facto* for his Life; and P. 92. He argues that the People, by the Parliament, may make the Crown Hereditary; and cites *Ja. I.* that they have undoubtedly done so. And by parity of Reason we may conclude, that, by the consent of all Interested, the Power of the Crown may be altered lessen'd or varied.

These Authorities will be sufficient to shew, the general Opinion of all Parties to be agreeable to the Proposition here mentioned.

And indeed the Sentiments and Conduct of all Ages, seem fully to prove the Truth of the above Proposition. — For that there have been great Changes in our Constitution, can admit of no Dispute, and that such general Changes, Alterations, or Explanations, or Laws of the Constitution, have been allowed as Right. For who now doubts or questions the Rights and Privileges of the House of Commons, in give-

(1) P. 129.

ing our Money, and yet every one who knows any Thing of our Constitution must know these their Privileges have been from Time to Time increased, and are now firmly established.

Again, that a great Addition was made to the Liberties and Ease of the People, at the Restoration, by King *Charles*, the 2d's giving up the Court of *Wards*, is not to be denied; and yet I do not believe that the warmest Advocates for the Crown, Question the Legality of the Thing, or would wish to see those Tenures Restor'd; for the Freedom from which Bondage we ought to be thankful to the Family of the *Stuarts*.

And on the other Side, what the whole Legislative Power, in as solemn a Manner as possible, declared and enacted at the coming in of King *James* the I. will be seen under the seventh Proposition. And at the Restoration of King *Charles* the II. the Words of (12. C. 2. c. 30.) are, 'and be it
' hereby declared that by the undoubted and
' fundamental Laws of this Kingdom, neither
' the Peers of this Realm, nor the Com-
' mons, nōboth together in Parliament,
' or out of Parliament, nor the People col-
' lectively or representatively, or any other
' Person whatsoever ever *had, hath*, or ought
' to have, any coercive Power over the Per-
' son of the Kings of this Realm.' Which
Acts seem to determine all Disputes about the
Crown

Crown being Hereditary, and that it was not lawful to resist the King on any pretence whatsoever; and equally to conclude and bind the then People and their Descendants, as the former Acts bound the Crown and their Successors to it: The same Reason is equally applicable to both, and if the consent of all Interested cannot bind both the Parties consenting, and those claiming under them, it will bring us back to the Destruction of all Government, and all the Absurdities and Confusions mentioned and considered under the first Proposition.



PROPO-



PROPOSITION V.

MONARCHY *is the best Sort of Government:*

I shall here pursue the same Method I did before, and therefore first produce some Authorities for the Preference of Monarchy; and as Lord *B* — — —'s is one of the last Books on the Subject, and is said to have very great Weight in several Instances, I hope his Authority will be as prevalent here; especially as his Opinion in this Case, is likewise supported by some very good Reasons. And he says — (1) I esteem Monarchy above any other Form of Government, and Hereditary Monarchy, above Elective. And again, (2) " Among
 " many Reasons which determin me to pre-
 " fer Monarchy to every other Form of
 " Government; this is a principal one — It
 " may be more easily and more usefully
 " tempered with Aristocracy, or Demo-
 " cracy, or both, than either of them,
 " when they are the essential Forms, can be
 " tempered with Monarchy, and the true

(1) P. 83.

(2) P. 91.

“ Form of our Government will demon-
 “ strate this without seeking any other Ex-
 “ ample.

And again, (1) “ This I presume to *say*
 “ and can demonstrate, that *all* the Limi-
 “ tations necessary to preserve Liberty, as
 “ long as the *Spirit* of it subsists, and lon-
 “ ger than that, no Limitations of Mo-
 “ narchy, nor any other Form of Govern-
 “ ment, can preserve it, are *compatible* with
 “ Monarchy.”

And one Advantage Monarchy certainly
 has over other Forms of Government, is
 that it is free from those terrible Convulsi-
 ons which often happen, when coordinate
 Powers struggle for Superiority; or equals,
 in Republicks to gain the Ascendant over
 their Rivals in Power; such was the pre-
 tended Struggle in our late civil Wars, and
 such the fatal Contests betwixt *Marius* and
Sylla, and that between *Cæsar* and *Pompey*.

All which seem very political Reasons, for
 the Preference of Monarchy, to which we
 may farther add, that Monarchy has long
 been established and approved amongst us,
 and that if we look back into all History,
 the higher we go, the more plainly it ap-
 pears, that Monarchy was the then Govern-
 ment of the whole World, which is a strong
 Proof, both of its being the first, and also

(1) P. 96,

then thought the best Sort of Government; and if we will but admit the Christian Scheme into our English Politicks, we shall certainly there find that Government was of divine Institution, and Monarchy the first Government; and the first Man the first Monarch, and that all his Descendants would be his natural born Subjects, was divine Institution out of the Case: But that if we exclude divine Institution, and paternal Authority out of the Case, it will be hard to support the Authority of any Government over the Lives, Liberties, and Properties, of the People.

So that here we seem to have the Preference of Reason, the Advantage of Experience, the general Practice of Mankind, the Antiquity of its Origin, the Law of the Land, the Law of Nature, and the Law of God; all concurring in preferring the Excellency of Monarchy.





PROPOSITION VI.

Hereditary Monarchy is the best Sort of Monarchy.

AS this seems almost naturally to follow, from the Truth of the last Proposition being admitted, I shall have the less Occasion to say much in Support of this Proposition; and indeed the Authority of this noble Lord, and the Reason he gives, seems sufficient to fix this Point; who says,

As I think a *limited Monarchy* the best of Governments, so I think an *Hereditary Monarchy*, the best of *Monarchies*. P. 91.

“ For there are but two Ways of continuing a Monarchy, either by an *Hereditary Succession*, or by electing a King at every Vacancy.”—On which his Lordship expresses himself thus.—“ In Practice, nothing can be more absurd, than to have a King to choose at every Vacancy of a Throne”—And a little after adds—“ In another Respect the Advantage is entirely on the Side of Hereditary
“ tary

" tary Succession, for in elective Monar-
 " chies, these Elections whether well, or
 " ill made, are often attended with such
 " *national Calamities*, that even the best
 " Reigns cannot make amends for; where-
 " as in *Hereditary Monarchy*, whether a
 " good or bad Prince succeeds, these Ca-
 " lamities are avoided. There is one Source
 " of Evil the less open; and one Source
 " of Evil the less in human Affairs, where
 " there are so many, is sufficient to decide,"
 P. 89, 90.

Besides in *Elective Monarchies*, the gene-
 ral Interest is commonly sacrificed to the
 private good of the King, or the raising his
 Family or Friends, knowing the Advan-
 tage to cease when the Life drops, where-
 as those whose Estates are lasting to their
 Families, are better taken Care of in all
 Stations, from the Prince, to the Plowman;
 for who is fond of building, or beautify-
 ing, what he is sure those he has the most
 tender Regard for never must enjoy? Or
 who improves those Farms, with Spirit,
 or Industry, which he knows must quickly
 be taken from his nearest Relations for
 ever? And the same Reasoning may in a
 great Measure be applied to every other
 beneficial Article of so precarious a Tenure
 or Title, to an Estate, or a Kingdom.

P R O-



PROPOSITION VII.

The Monarchy of England has long been Hereditary.

THAT we have had a Monarchy in *England*, Time out of Mind without Interruption (except in the grand Rebellion) is out of Dispute.—And indeed all seem to agree that it has been Hereditary, in the ordinary Course; only some would have it in the Power of the Estates of the Realm, to exclude him, who has the next Right of Succession, and elect another in his Place—which last is the Opinion of the *Jesuits*, and many of the *Whigs* and most of the *Presbyterians*.

And that the Constitution conveyed the Crown by *Hereditary Right*, in the same Family, during the Contests betwixt the *York* and *Lancaster* Families, both pretending in every Contest to have this Right on his Side, is truly asserted by his Lordship. *P.* 168—9.

But not to enter into unnecessary Disputes, about the several Breaches in this Succession, I shall principally rest the Truth
of

of this Proposition on the Act of 1 *Jac. 1.* called the Act of Recognition, which is in these Words,

“ We in most humble and lowly Manner, beseech your most excellent Majesty, that, as a Memorial to all Posterity, it may be published, declared, and enacted, that we, being bound thereunto by the Laws of God, and Man, do with unspeakable Joy recognize, and acknowledge, that immediately upon the Dissolution, and Decease, of Queen *Elizabeth*, the Imperial Crown of the Realm of *England*, &c. did by *inherent Birth-right*, and lawful and undoubted *Succession*, descend and come unto your most excellent Majesty, as being lineally, justly, and lawfully *next and sole Heir* of the Blood royal of this Realm. And to this Recognition, we do most humbly and faithfully submit and oblige ourselves and our Posterities for ever, until the last Drop of our Blood be spilt.—On which Mr. *Brown* has these Words,

(1) And this sure must imply their utter disclaiming of any Power in the Estates of the Realm, to set aside the next lineal, just, and lawful Heir to the Crown, by their Election of any other Person.

Now whatever Disputes, Perplexities, or Doubts; might have arisen before this Time, before this Act of the whole Legislature, must, by the fourth Proposition, for the future, establish the Hereditary Right of the Crown of *England*, in the Family of the *Stuarts*; and to use the Words of the beforenamed Mr. *Brown*, (1) must imply their utter disclaiming of any Power in the Estates of the Realm, to set aside the next lineal, just, and *lawful* Heir of the Crown, by their Election of any other Person. — Which is farther confirmed by the known Maxim and Rules of Law, that the King never dyes, and that there is no inter-regnum in our Hereditary Kingdom, that on the Demise of the rightful Hereditary King, the Crown and Realm immediately descend unto, and are actually vested in the Person, and Possession of the right Heir, before he be either actually proclaimed or crown'd, and that it is high Treason to attempt any Thing against his Person, or royal Authority before his Coronation. — All which is so well known to be Law, that I think it unnecessary here to give particular Proofs of it, except a Case or two aftermention'd, and I think this Point so clear by what is here mentioned, that I shall only add what his Lordship

(1) P. 92.

says

says about the Bill of Exclusion, on which Occasion he tells us, (169) “ That the
 “ Right of that Prince, (the Duke of York
 “ after K. James the 2d) to the Crown,
 “ was not disputed. His *Divine Right*
 “ indeed—was not much regarded; but
 “ his Right by the Constitution, his *legal*
 “ *Right* was sufficiently owned by those
 “ who insisted on a Law as necessary to barr
 “ it.

Which evidently shews, as his Lordship argues, that the greatest Enemies of the House of *Stuart*, then thought the Heir apparent of the Crown, had such a *legal Right* vested in him, as nothing but an Act of the whole Legislative Power could barr.

Hence also it appears that the Legislative Power, could alter the Form of Government, which both confirms the fourth Proposition, and also the Consequence drawn under this Proposition, that the *Hereditary Right* of the Family of *Stuart*, consequently was established, by the 1 Jac. 1. beyond Contradiction.

I shall only farther add under this Head, what passed at the Convention, which none can think was favourable to the *Stuart* Family, for even then at the Conference about the *Abdication*, it seems agreed both by the Lords and the Commons, amongst other Things,

G

1. That

1. That by the Constitution of the Government, the Monarchy is Hereditary. At which Conference,

The Bishop of *Ely* insisted much on the Argument of the Establishment of the Succession, by the Statutes of *Q. Elizabeth*, and *1 K. James*, which obliged, till altered by the Legislative Power, which singly, or jointly, without the Royal Assent he supposes they did not pretend to.

The Earl of *Clarendon* said — truly I think no Act of ours, can alter the lineal Succession, for by all the Laws we have now in being, our Government appeared to be Hereditary, in a right Line of descent: And upon any Descent, when any one ceaseth to be King, Allegiance is by Law, due to the legal Heirs, as well before Coronation as after. — And again,

I take this Government, by all our Laws, to be Hereditary Monarchy, and to go in Succession, by Inheritance, in the Royal Line.

Sir *Thomas Littleton* owned — our Government has been always taken to be Hereditary, and so declared when there has been Occasion to make Provision, otherwise than in the direct Line. The Earl of *Pembroke* said — The Laws made, are certainly Part of the original Contract, and by the Laws made, which establish the Oath of Allegiance, and Supremacy, we are

are tied up to keep in the Hereditary Line, being sworn to be true and faithful to the King, his Heirs and Successors.

The Earl of *Nottingham* said — On your Part you have declared, that you do acknowledge the Monarchy is Hereditary, and successive, in the right Line; then I cannot see how such an Acknowledgment consists with the Reasons you give for your Vacancy; for I cannot imagin how a Kingdom can be an Hereditary Kingdom, and that King who hath Children now in being (at the Time of his forsaking the Government) can have the Throne vacant, both of him and his Children, the Course of Inheritance, as to the Crown of *England*, is by our Law a great deal better provided for, and runs stronger in the Right Line of Birth, than of any other Inheritance, no Attainder barrs the Heir. —

I desire first to know, whether the Lords and Commons, have Power by themselves to make a binding Act, or Law? And then I desire to know whether according to our ancient legal Constitution, every King of *England*, by being seated on the Throne, and possessed of the Crown, is not thereby King to him and his Heirs; and without an Act of Parliament (which we alone cannot make) I know not what Determination we can make of his Estate. — “ And again, no
 “ Act of the King alone can barr or de-
 G 2 “ stroy,

“ stroy, the Right of his Heirs to the
 “ Crown, and therefore in Answer to the
 “ third Reason, alledged by the House of
 “ Commons, if the Throne be vacant of
 “ King *James* the second, Allegiance is due
 “ to such Persons as the Right of Succession
 “ doth belong.

And when this great Point came to be
 voted, there were but 51 Lords for, and 49
 against the Prince of *Orange*'s being made
 King; so far was the Nation from being
 unanimous in that Affair, as is generally re-
 presented, and the Abp. of *Canterbury*,
 who was firm to King *James*'s Interest,
 would never come to the Convention as
 thinking it unlawful.

However we may surely hence conclude
 that if 51, against 49, could carry and
 establish so important a Point, the undoubt-
 ed Act of the whole Legislature passing the
 Act of 1 *Jac.* 1. and 12 *Ch.* 2. c. 30.
 must be conclusive and bind both the Parties
 thereto and all those that came after them
 as long as those Acts continued in Force.

PROPOS-



PROPOSITION VIII.

The Hereditary Monarchy of England was Irresistible.

UNDER this Head I shall first make use of two Authorities of very different kinds, both Persons of very distinguished Abilities, the late learned Bishop *Kennett*, and the before-named celebrated Mr. *Brown*, who also give us strong Reasons to make good the Truth of the above Proposition.

The former of whom in his Sermon, before the House of Commons the 30th of *January 1705*, says, ‘ This is the true Foundation of that common Axiom, the King can do no wrong, because there is no Right, no Remedy against his Royal Person; and in the same Sermon he says, it was declarative of our Original Constitution (*which one would think should be the Original Contract, unless the Original Contract and the Original Constitution differ* * that our Legislature upon Occasion of this Day, would have it expressed, that by the undoubted and fundamental Laws of this King-

* These Words are Mr. *Phipp's*.

‘ dom

' dom, neither the Peers, of this Realm,
 ' nor the Commons, nor both together in
 ' Parliament, or out of Parliament, nor, the
 ' People collectively, or representively, nor
 ' any other Persons whatsoever, ever had,
 ' have or ought to have, any Coercive
 ' Power over the Persons of the Kings of
 ' this Realm, — and I think it is evident
 ' that where there can be no Coercive
 ' Power, there cannot be any Resistance. (1)

And it is upon the above cited Act that
 Mr. *Brown* founds his reasoning in the be-
 fore mentioned excellent Discourse, for after
 citing 13 C 2, c 6. 14 C 2, c 3, he argues
 thus, (2) ' which therefore utterly divests
 ' the Estates of the Realm of any Power of
 ' *Resisting the King* from thenceforth, sup-
 ' posing that they might have had such a
 ' Power by the Constitution before, tho'
 ' the same Act declares this to be, and ever
 ' *to have been* the fundamental Law of this
 ' Realm,' and after adds,

' Neither can this be evaded by saying
 ' that, that Parliament had no Authority
 ' to give away the *Power of the People*, to
 ' resist a King, that should invade their
 ' *Rights and Liberties*. For *first*, they gave
 ' away a Power which is supposed to be
 ' lodged in them, and not in the People.
 ' *Secondly*, The whole *Nation* may be said to

(1) Dr. *Sacheverel's* Trial, P. 145. (2) P. 91.

' have

' have confirmed and ratified their Act, in
 ' as much as every Person in the Church,
 ' the Militia and Corporations, has for so
 ' many Years since, sworn to or subscribed
 ' the Declaration enacted by their Statutes.
 ' That it is not lawful upon any Pretence
 ' whatsoever, to take up Arms against the
 ' King, which is as full a giving up of the
 ' Power of Resistance by the whole Nation,
 ' supposing they had had such a Power,
 ' as if they had all assembled together.'

I think there needs no Addition to the
 Strength of these Authors reasonings, tho'
 it may not be disagreeable to see what is
 also said by some of the highest Station,
 and Archbishop *Tillotson*, in his Letter to
 Lord *Russel* offers these Considerations (1)
 concerning the Point of Resistance, That
 the Christian Religion doth plainly forbid
 the resisting Authority. 2. That in the
 same Law which Establishes our Religion,
 it is declared, it is not lawful upon any
 Pretence whatsoever to take up Arms
 against the King. And at the same Trial
 of Dr. *Sacheverel*, Sir *Thomas Parker*, after-
 wards both Chief Justice of the Kings Bench,
 and Lord Chancellor, (2) charges it as a
 Crime that the Doctor had not preach'd up-
 on Resistance to the Queen, which Sir *Thomas*
 would not have charged as a Crime in the

(1) Dr. *Sacheverel*'s Trial, P. 144.

(2) P. 103.

Dr. to omit had such Resistance been lawful, his Words are, (1) He says, he has declared all Resistance unlawful. Yes ' all Resistance to the supreme Power; but he ' has never declared Resistance to her Majesty unlawful; he maintains the utter legality of Resistance on any Pretence whatsoever to the *supreme Power*, but nowhere says that in the supreme Power he includes her Majesty, or that it is illegal to resist her.

And Sir *Joseph Jekyll*, another of the learned Managers against the Doctor, has the following Words in relation to the Laws. (2) As to those (Acts) before the Restoration, I readily admit they condemn Resistance generally, they don't mention any Exception.

' The next Head of our Acts are those ' after the Restoration, and before the Revolution, I do admit those Laws go ' farther than the former, and seem to condemn all Resistance, and in such Terms ' as to exclude any Exception whatsoever; which Concessions from Enemies seem pretty strong for the establishing the above Proposition, and which is more strongly affirmed by the Council for the Doctor.

Mr. *Phipp's* after quoting the above

(1) P. 103.

(2) P. 258.

Passage from Dr. Kennet's Sermon, adds, I believe it will not be denied by any Lawyer, that taking up Arms against her Majesty is High Treason, by the Statute of the 25th, of Edw. III. And,

Mr. Dodd, (1) mentions 25 Edward III. as the Standard for Treason for many Ages, — and says — ‘ now I need not repeat
 ‘ that to resist the executive Power, and
 ‘ the Person of the King, by that Act, is
 ‘ compassing his Death, and levying War
 ‘ against him.’ They have always look'd upon it, that resisting the King is levying War, it is compassing and imagining the Death of the King. He then cites the Words of 12 C. 2. cap. 30. 13 C. 2. Corporation Act. That they do believe, *that it is not lawful upon any Pretence whatsoever, to take Arms against the King.* He then cites the Militia Act. 13 and 14 C. 2. the Uniformity Act. 13 and 14 C. 2. and that which establishes the Abjuration.

And mentions the Exception of a King's turning Papist, or marrying a Papist, on which he has these Words. ‘ And this I
 ‘ take to be the first stated and determined
 ‘ Exception to this general Rule that ever
 ‘ was made in any Act of Parliament, and
 ‘ says must he (the Doctor) limit this
 ‘ Rule and State the Exceptions to it. — He

(1) P. 135 — 6 — 7.

‘ must tell them Resistance is unlawful, but
 ‘ there is an Exception to that Rule, but
 ‘ what that Exception is I must not tell
 ‘ you, but you must find it as you can,
 ‘ which would look like the blind leading
 ‘ the Blind.’

And to say it is lawful for any Person to resist those whom the Laws of a Country have declared irresistible, is directly to contradict the first Proposition, and would totally overthrow every established Government, by giving every private Person a Right to over-turn every Government whenever he judges it necessary or prudent so to do.

And indeed the very Exception made in the Act, to allow of Resistance in Case the King turns Papist or marry a Papist, being a new Exception, as Mr. *Dodd* mentions, shows that the being a Papist was not excepted before, and confirms the Rule as to all other Articles not excepted according to the known Rule, *Exceptio probat Regulam in non Exceptis*, Every Exception confirms the Rule in what is not excepted.

PROPOSITION IX.

The MONARCHY of England is still Hereditary.

THAT the English Monarchy was long Hereditary by the *English* Laws, and Constitution, was fully shewed under the seventh Proposition; and if these Laws have not been altered, they must still be in Force, and the Hereditary Succession of the Crown, still the same by those Laws.

And if those Laws have been repealed, or any new ones made, since the Revolution, declaring the *English* Monarchy not to be Hereditary, such a Repeal, or such a Law, must surely be very well known; and certainly easily to be produced, and as readily shewed as those I have produced, to prove the Monarchy to be Hereditary.

And the Proof of such a *Repeal*, or such a *Law*, will be expected, from those who affirm there are such, the Proof lies on them by all the Rules of arguing. (1)

(1) Affirmanti incumbit Probatio.

There have been two very remarkable Periods of Time, since K. *James* left the Crown, far from being favourable to the Family of *Stuarts*; and which might have occasioned such a Law, and certainly would have brought such a one to public Light, if any such there had been, and those were the Convention, when K. *James* was abdicated: And Doctor *Sacheverel's* Trial, when there was an Attempt to establish the Lawfulness of Resistance.

I mention'd under the seventh Proposition, the Substance of what passed in the Debates about the Abdication: at which Time, the Hereditary Right of the Crown, was insisted on to be the Right, and consequently, rather establishes, than weakens this Proposition: But I will not repeat, but refer to what is said on that Head, under the seventh Proposition.

And as to Doctor *Sacheverel's* Trial, nothing then produced any Sentence, or Law, to the Prejudice of the Hereditary Right of the Crown, the Managers expressed themselves in very different, and very inconsistent Manners, as to several Particulars; and both some of them, and some of the Doctor's Council, still affirmed the Hereditary Right. For the Solicitor General has these Words, *P. 270.* "In the next Place, they turn it up-
" on the Commons, as if they denied the
" Hereditary Right, (which they shall ever
" avow)

“ avow) when they asserted the Title by
 “ Act of Parliament. I submit to your
 “ Lordships whether any Thing more was,
 “ than that the Hereditary Right was con-
 “ tested, and this is notorious to all the
 “ World.”

So that here is a positive Declaration,
 from an Enemy, at Dr. *Sacheverel's* Tryal,
 that the Commons *shall ever avow the He-*
reditary Right. And,

Mr. *Chr.* of the Exchequer, asserts, that
 tho' her Majesty *has an Hereditary Right*
 to the Crown, yet he takes those Acts of
 Settlement, to be her great Security; and
 can make no Question but that if the Foun-
 dation of those Acts were shaken, the Doc-
 tor would soon find another *Hereditary*
Right to resort to. P. 113.

Mr. *Phipps*, one of the Doctors Coun-
 cil says, — If the Queen who *has an Heredi-*
tary Right, and also a *Right* confirmed and
 established, by Act of Parliament, can-
 not be said to be a *jure divino* Queen, I do
 not know who can. P. 139.

So far was any Thing done at that Trial
 from prejudicing of the *Hereditary Right*,
 that all the Laws which declare that there
 is no interregnum, in our Hereditary King-
 dom, and that on the Demise of the right-
 ful Hereditary King, the Crown and Realm
 immediately descend unto, and are actually
 vested in the Person, and Possession, of the
 Right

Right Heir, before he be either actually proclaim'd or crown'd, were then insisted on and it was affirmed, that it is high Treason to attempt any Thing against his Person, or Royal Authority, before his Coronation; as was adjudged in *Watson's Case*. *Hill. 1 Jac.* see also the Duke of *Northumberland's Case*, 1 *Mary*, who pleaded 11 *H. 7. c. 1.* that Act mentioned by Lord B——e, to justify complying with every Possessor, when he tells us, that in the Days of *York* and *Lancaster*, a Man might be against a Prince on the Throne, without being against the Constitution of his Country, the Constitution conveyed the Crown by *Hereditary Right*, in the same Family; and he who was a *Yorkist*, and he who was a *Lancastrian*, might, and I doubt not did pretend, in every Contest to have this Right on his Side; the same Constitution was acknowledged by both, and therefore so much Indulgence was shewn by Law to both, at least in the Time of *Henry* the seventh, that submitting to a *King de facto*, could not be imputed as a Crime to either.

I presume his Lordship cannot imagine the Subject had any Benefit of this Law before it was made in *Henry 7ths* Time, and the Duke of *Northumberland* had not the Benefit of it in *Queen Mary's* Time, tho' he insisted on it, and I believe it will be hard for his

his Lordship to produce one Instance wherein this Act ever took Place.

Nor indeed can I understand why his Lordship says what the *Yorkist* and *Lancastrian* did, was not against the Constitution, and not to be imputed as a Crime to either; and yet condemn those of different Sides in Queen *Anne's* Time or since as unpardonable Rebels to the Constitution, and at the best as bad as the fifth Monarchy Men. When the Pretender and Queen *Anne*, were exactly the same Relation as the two first Claimants under the Houses of *York* and *Lancaster*, and the Crown was as long possess'd by the youngest Branch formerly, as it has been held since the Revolution, and the present King is certainly a younger Branch of the House of *Stuart*, and according to his Lordships Doctrine it could be no Crime to take on either Side; tho' I never heard such a Plea was admitted as an excuse for the taking up Arms, but the direct contrary maintained by all the late Executions, and all the Whigg Principles of compact, and Right of Self Preservation, being the first Law of Nature, absolutely condemned by the present Government in the Sentence before mentioned, as passed and executed on the Seamen taken in the *Spanish* Ships for Acting against their Natural born Allegiance, and consequently guilty of Treason by Law.

And

And whatever odium his Lordship may endeavour to throw on the Nonjurors, I believe all wise Men will think, and Experience confirm the Truth of it, that those who are true Friends to the *English* Monarchy are much likelier to preserve it in the House of *Hanover*, than those who are downright Republicans, and profess'd Enemies to Monarchy in every kind; and that those who are desirous to preserve the Honour of the House of *Stuart*, and the Hereditary Right of the Crown, will in all Reason be the more inclined to pay an handsome Regard to the House of *Hanover*, so illustrious a Branch of the Family of the *Stuarts*, and to preserve the Succession in the present Family, than they who take all Opportunities of vilifying the *Stuarts*, and whose Principles and Inclinations constantly lead them to ridicule and run down the Hereditary Right of every Branch of that Family, and even totally to abolish the Monarchy too. And here the Words of the Solicitor General, at Dr. *Sacheverel's* Tryal, (1) seem very applicable, who tells us, by the same Act (of Settlement) all Persons who shall hold Communion with the See of *Rome*, or shall marry Papists, are declared incapable to inherit, possess, or enjoy the Crown, and it is enacted that the

(1) P. 50.

Crown and Government shall from Time to Time descend to and be enjoyed by such Persons, being Protestants, that should have inherited and enjoyed the same, in Case such Popish Prince were naturally dead, which appears to me a plain Proof of the still Hereditary Descent of the Crown, except as there excepted.





PROPOSITION X.

*The Monarchial Government of England has
a Divine Right.*

I shall here also first offer a few Authorities, and after add, some Considerations on this Subject.

The two first I shall mention, were quoted at Dr. *Sacheverel's* Trial, where 'tis said (1)

Overal's Convocation Book - does as plainly assert this too - That all settled Governments, what ever their Beginning were, have God's Authority and must be obeyed - And the Bishop of *Carlisle*, in his Sermon before the House of Lords, 30 Jan. 1702, says, (2) " Our Foundations it's to be
' hoped, are not shaken by the Weight of
' those many great and extraordinary Re-
' volutions, that have passed upon us; the
' all wise Providence of God has frequently
' of late, (and as some of us always
' thought, very graciously) exchanged our
' Governors. But if we ungratefully, alter
' our Notions of the *Divine Right* of Go-

(1) P. 166.

(2) P. 176.

' vern-

‘ *vernment*, and throw off our antient, and
 ‘ primitive Rules of Obedience, we shall
 ‘ make an unworthy Return for the Mercies
 ‘ we have received.”

And the late Bishop of *Exeter*, (Dr. *Blackall*) in his Sermon on *Rom. 13. 4.* (1) says, “ One Thing here declared, is the
 ‘ Divine Institution of Magistracy, *he is*
 ‘ *the Minister of God*: Which Words do
 ‘ import two Things. 1, That it is of
 ‘ God, or by Divine Appointment, that
 ‘ some do bear Rule over others. And, 2,
 ‘ That the Authority exercised by the Ma-
 ‘ gistrate, is a Ray, or Portion, of the
 ‘ Divine Authority, communicated to him,
 ‘ and entrusted with him by God.”

And L———d B———e is pleased to say, (2) It follows therefore that he who breaks the Laws of his Country resists the Ordinance of God, that is the Law of his Nature — for tho’ God has instituted no particular Form of Government, among Men, yet by the general Laws of his Kingdom, he exacts our Obedience, to the Laws of those Communities, to which each of us is attached by Birth, or to which we may be attached by subsequent and lawful Engagements.

(1) Sermon before the Quern, *March, 5. 1700.*

(1) P. 84—6.

But perhaps the Reader may be hard set to know what his Lordship means by *Laws given immediately to all Men by God, the same to all and obligatory alike on all*,—which may be said properly enough to be revealed to us by God, of which we can no more doubt of the Obligation than of the Existence of the Law-giver.—And yet to find such perpetual Disputes, about such plain Laws; and that such a Man as Dr. Clark, could so far mistake them, as to deserve his Lordship's Censure of *impious Dogmatist*, whilst this ingenious Author himself runs into equal Absurdities, and Inconsistencies, about these plain Laws. But thus it will ever be, whilst the most ingenious, will forsake the plain revealed Law of their God, and set up their own weak Reason as an infallible Guide into all Truth.

However in our present Case it seems pretty well agreed, that there is a Necessity of a *Divine Right* to every Government, which will pretend to lay any Obligation on the Consciences of the Subjects to Obey, or which can give any Government Power over the Lives of such its Subjects : So that the Thing itself seems to be out of Dispute, that it must be had one Way or other to every rightly constituted Government, and that the only Question is, how the Government comes by such a *Divine Right*.

To

To say, that such an Obligation to obey for *Conscience* Sake, or such an Authority over the Lives of Men, can either flow from the Nature of Civil Society, or arise from what is called a *State of Nature*, or from any Original Contract or Agreement amongst Men, will be hard to explain or support.

For if in such a Situation, no Man has Power over his own Life, he cannot then transfer any such Right over it to any other Person or Persons, and I think it is pretty generally agreed, that no Person has such a Power over his own Life, and I never yet saw any good Proof, that every Man has such a Power.

And as to obeying for *Conscience* Sake, no Contract or Agreement, can lay us under such an Obligation, (any farther than we find it convenient to us) but must first suppose some prior Obligation on us to perform such Contract or Agreement, which prior Obligation cannot arise from ourselves, but from some Superior Power, which must certainly at last End in that of God, from whom all Authority must come, so that a positive Divine Authority to establish any such Obligation seems absolutely necessary from the Nature of the Thing.

Now such an Obligation, Precept, or Authority can only be known to us, by its being one Way or other notified to
Mankind,

Mankind, which brings us to the Necessity of a Divine Revelation of it, before we can be sure of the Divine or Regular Authority of any Government, which Divine Precept or Authority was, we may reasonably conclude, given by God at the first Creation of Mankind, since we cannot imagine God would create Beings and leave them to Quarrel about Authority as soon as he gave them Existence, but that he would direct who should Command, and who should Obey; and whoever believes in the Bible may easily find this Power was given to *Adam*, and plainly continued in the Primogeniture, and in the Rights of Fathers of Families.

Or it may be any Time since revealed that God had given this Power to all regular Governments, which would be a sort of a repeating and confirming the first given Precept, and also the adding the Authority of a new Commandment, and such we take to be our present Case under the Christian Revelation, where *St. Paul* declares, there is no Power but of God, and the (1) Powers that be are ordained of God, and on that Foundation presses the necessity of Obedience as a Duty, and then declares the Punishment annex to the

(1) *Rom. xiii. 1.*

Offence.

Offence. That they that resist shall receive to themselves Damnation.

And perhaps God may have so ordered in his wise Providence, that from the Sense of the Weakness of our Reason in this Point, as well as some other Instances, we may with the more willingness seek for certainty in, and submit to Revelation, and thereby be kept under a constant Dependence upon himself, and under a Necessity of consulting him in his Word.

For notwithstanding this Noble Lords pretending to Principles equally certain with the Existence of a Deity, and these so much boasted of certainty of arguing from the Eternal Difference of Things, which shall clearly point out and ascertain the several Obligations we are under; we may properly enough here apply the Sentiments of a very ingenious Writer, That after all, true Wisdom and satisfactory Knowledge is only to be had from Revelation, and as to other Truths, which are to be collected from Sense and Reason, most of our Rational Deductions are often both weakly bottom'd, and depending upon a long Train of Consequences, which are to be spun from one another, there Strength is often lost, and the Thread broke, before we come at the Conclusion, and mentions that (1) *Varro* reckons 288 Opinions, only concerning

(1) Reflections upon Learning.

ing the *Summum bonum*: and if the differences were so great concerning the ultimate End, which all Men desire, and in which if any Thing the common Sense of Mankind should seem to agree, may easily imagine what Agreement there was in other less Ends and particular Duties.

Whatever Difficulty therefore may arise from the sole Consideration of Civil Rights and Contracts, if we take into our Thoughts the Authority of the supreme Law-giver, and the Truth of the Christian Religion, it will be evidently appear (1) Not only that the Office (of Magistracy) itself is by divine Appointment or Institution, but also, that the Authority by which the Magistrate Acts, and the Power which he exercises in the Execution of his Office, is a Ray or Portion of the Divine Authority and Power, derived to him from, and communicated to him by God.

For as he is, as the Apostle says, a Minister, that is, a Servant, the Power which he exercises, must be derived to him from that Superior Being who has Authority over both him and his Subjects; who can Commission him to bear Rule over them, and can lay it as a Duty upon them to be subject to

(1) *Blackhall's Sermon on Rom. xii. 4. P. 4.*

him

him, and if he be any-body's Servant it must be God's, as there mentioned, for it would be absurd to say, that he is their Servant over whom he bears Rule, because that would be in effect to say, that it is all one to Command, and to Obey; to have Power over, and to be Subject to, he has no Superior but God, he has none above him upon Earth, to question, censure or punish him, *and whoever resisteth, the Power resisteth the Ordinance of God.*

So that on the whole, we may conclude that as far as Nature and Reason can dictate, they would Point out the Authority of Parents over their Descendants, and that there must be somewhere an irresistible and uncontrollable Power, and that our Constitution and Law have long fixed where that Power was undoubtedly lodged, *that this Power can't be given by the People, because it is what they themselves have not,* (1) and therefore must be derived from the Author of all Power, which the Scripture put beyond all Dispute, by declaring *there is no Power* but of God; the Powers that be are ordained of God, and surely if in any Case, we may here apply these Words of the Apostle, *whosoever resisteth such a Power,* founded upon a long *Hereditary Right* of

K

Monarchs

Monarchs established by all the Authority
the Laws of Man can give, must certainly
be said to *resist that Ordinance of God*, which
whoever believes the Scriptures must cer-
tainly believe to be *Divine*.





CONCLUSION.

AND now Reader, having given you a System of my political Principles; I shall freely leave them to the strictest Examination of Friends, and the severest fiery Trial of their Enemies; which Test they will bear, if they be really true, and will then deserve to be embraced; but if they are found wanting, when weighed in the Ballance, on a Conviction of my Mistake, I shall be as willing to commit them to the Flames, as the most fiery Zealot would do the Author.

I have carefully endeavoured to avoid giving any just Offence, and therefore have declined all harsh Words, and the Extravagancies of all Parties, and kept close to Principles, without applying them to any particular Facts; and therefore I have neither censur'd, or approved the Conduct of *K. Charles* the first, the taking up Arms against him, the Possession of *Oliver Cromwell*, the Restoration, the Abdication, Convention, Revolution or *Hanover* Succession: Since Facts are to be judged by Principles, not Principles accommodated to Facts; for sure there is Truth which is not to be

determin'd by the Multitude of Votes, as sometimes they tell Noses for Law; and there are Cases in which I can no more think a full Vote of the House infallible, than I can submit to the Opinion of the Pope, tho' assisted with the whole College of Cardinals.

And therefore I shall always declare against judging of Principles by Facts, or ever applying the Latter to justify, or condemn the Former; except in those Cases, where the Fact determines the Right, for if it was once admitted for a Rule, to justify what we *ought to do*, by what we *do*; we might soon conclude against the Truth of the Creed, and bid adieu to the Ten Commandments.

But I have not so learned Christ, and am neither ashamed, or afraid, to own myself a Believer, and Professor, of that Religion he taught, and which was propagated, in Opposition to all the temporal Laws, and Governments then in being; and, however it may be locally depress'd, or distress'd, will, I doubt not, at length prevail; and which certainly in some Instances, not only requires us to leave Father, and Mother, but also to part with our Liberties, Properties, and Lives too for it, if we will be Christ's *true* Disciples.

This

This Doctrine, I know, is not modish, nor will, I believe, be very agreeable; but however *hard* the *saying* may be, it must be obeyed if it *be commanded*, and will prove *harder* at last, if not *obeyed now*: But as preaching is not my Province, so neither is the Practice of others my particular Concern, and therefore I shall leave *us all* to him *who gave the Command*, and whose Mercy is yet over all his Works.

F I N I S.

E R R A T A.

PAGE 14. Line ult. dele force

Page 20. Line 18. for his, read the

Page 28. Line 7. read Legislature—then

23. read warmest

29. read then

Page 31. Line 24. read fundamental

Line 26. read nor

Page 34. Line 5. read Limitations,

Page 41. Line 21. read and

Page 46. Line 4. read representatively

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